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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/749,059	12/27/2000	James M. Proper	D/A0433Q	5636	
7	2590 08/14/2003		13		
John E. Beck			EXAMINER		
Xerox Corpora Xerox Square	20A		COOLEY, CHARLES E		
Rochester, NY 14644			ART UNIT	PAPER NUMBER	
			1723		
			DATE MAILED: 08/14/2003	DATE MAILED: 08/14/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

			3				
		Application No.	Applicant(s)				
		09/749,059	PROPER, JAMES M				
•	Office Action Summary	Examiner	Art Unit				
		Charles E. Cooley	1723				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply							
A SHOTHE N - Exter after - If the - If NO - Failu - Any r	ORTENED STATUTORY PERIOD FOR REPLY MAILING DATE OF THIS COMMUNICATION. msions of time may be available under the provisions of 37 CFR 1.13 SIX (6) MONTHS from the mailing date of this communication. period for reply specified above is less than thirty (30) days, a reply period for reply is specified above, the maximum statutory period we re to reply within the set or extended period for reply will, by statute, eply received by the Office later than three months after the mailing and patent term adjustment. See 37 CFR 1.704(b).	i6(a). In no event, however, may a reply be tim within the statutory minimum of thirty (30) days ill apply and will expire SIX (6) MONTHS from a cause the application to become ABANDONED	ely filed s will be considered timely. the mailing date of this communication. O (35 U.S.C. § 133).				
1).	Responsive to communication(s) filed on 11 J	<u>une 2003</u> .					
2a) <b>⊡</b>	This action is <b>FINAL</b> . 2b) ☐ Thi	s action is non-final.					
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims							
4)	Claim(s) 1,3-11,20 and 22 is/are pending in the	e application.					
	4a) Of the above claim(s) is/are withdraw	vn from consideration.					
5)	Claim(s) 10 is/are allowed.						
6)	6) Claim(s) 1,3,4,7,9,11,20 and 22 is/are rejected.						
7)🗔	7) Claim(s) 5,6 and 8 is/are objected to.						
8) Claim(s) are subject to restriction and/or election requirement.							
	on Papers						
9) The specification is objected to by the Examiner.							
10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.							
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.							
If approved, corrected drawings are required in reply to this Office action.							
12) The oath or declaration is objected to by the Examiner.							
Priority under 35 U.S.C. §§ 119 and 120							
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).							
a) All b) Some * c) None of:							
1. Certified copies of the priority documents have been received.							
2. Certified copies of the priority documents have been received in Application No							
* S	3. Copies of the certified copies of the priori application from the International Bur see the attached detailed Office action for a list of	eau (PCT Rule 17.2(a)).	· ·				
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).							
a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.							
Attachment(s)							
2) Notice	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO-1449) Paper No(s) <u>11</u>	5) Notice of Informal P	(PTO-413) Paper No(s) ratent Application (PTO-152)				
S. Patent and Tr	ademark Office						

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# Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 2. Claims 1, 3, 4, 7, 9, 11, 20, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Noda et al. (US 5,785,424).

The patent to Noda et al. (US 5,785,424).discloses in Figure 15 a blending tool for use in a vessel (col. 1, lines 59-62) including a rotatable drive shaft 13; a shank 10 attached to the drive shaft 13 at a location of attachment; a collision surface 8 having a profile; a connector mechanism 101 capable of pivotally connecting the collision surface 8 to an end region of the shank 10 at a location spaced apart from the attachment location; wherein the connector mechanism is capable of permitting adjustability of the collision surface 8 along the length of the shank 10 or about the circumference of the shank thereby varying the profile of the collision surface along a plane parallel to the axis of the shaft 13; the connector mechanism having a fastener 102 enabling the collision surface to be rigidly fixed in one of any desired positions during rotation (col. 8, lines 61-67) or inherently removable from the shank; the collision surface 8 comprising plates 81-83 spaced apart from the shank 10; whereby the height of the blending tool is adjustable relative to the plane of rotation (e.g., if the fastener 102 and corresponding connector mechanism 101 were rotated or pivoted 90 degrees from the position seen in Figure 15, the surface 8 would be located higher with respect the plane of rotation

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defined by the shank 10); wherein further pivoting of the collision surface with respect to the shank 10 thereby varies the profile thereof along its height dimension.

### Allowable Subject Matter

- 3. Claim 10 is allowed.
- 4. Claims 5, 6, and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

## Response to Arguments

5. Applicant's arguments with respect to the pending claims have been considered but are most in view of the new ground(s) of rejection.

#### Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles E. Cooley whose telephone number is (703) 308-0112. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on (703) 308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Charles E. Cooley Primary Examiner Art Unit 1723

CEC August 12, 2003